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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison (U338E)
for Approval of the Results of Its 2013 Local
Capacity Requirements Request for Offers for the
Western Los Angeles Basin.

Application 14-11-012
(Filed July 21, 2014)

OPENING BRIEF OF SIERRA CLUB

MATTHEW VESPA
ALISON SEEL
Sierra Club
85 Second St., 2nd Floor
San Francisco, CA 94105
Telephone: (415) 977-5753
matt.vespa@sierraclub.org

Attorneys for Sierra Club

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SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1: Deny Offers 447200 - 447205 on the grounds that behind-the-meter reciprocating engines are not a Preferred Resource and therefore cannot be lawfully approved to meet SCE's Preferred Resource procurement requirements. Require SCE to meet the 70 MW of need from these contracts through a second RFO.

RECOMMENDATION 2: Deny Offer 447250 on the grounds that, although purporting to provide load reduction by curtailing customer demand, the contract for Offer 447250 allows load reduction to be met through behind-the-meter fossil fuel generation. In the alternative, approve Offer 447250 only on the condition the contract is amended to explicitly prohibit use of behind-the-meter fossil generation to meet the contract's performance obligations with punitive damages for non-compliance. If Offer 447250 is rejected, include the 5 MW of capacity from this contract as part of a second RFO.

RECOMMENDATION 3: Deny Offers 473237 and 473238 (Stanton Peaker) on the grounds that it is both unreasonable and contrary to the Loading Order to procure a fossil fuel peaker in lieu of more cost-effective and available in-front-of-meter energy storage. To replace the capacity that would be provided by the Stanton Peaker, order SCE to either refresh energy storage bids that were more economic than Stanton under SCE's valuation methodology or include additional capacity needed to meet SCE's minimum any resource authorization requirement as part of a second RFO.

RECOMMENDATION 4: Deny either Offer 475028 (Alamitos Combined-Cycle) or Offer 475209 (Huntington Beach Combined-Cycle) on the grounds that procurement over the 1,000 MW minimum fossil fuel authorization is unreasonable in light of state policy signaling continued decarbonization of California's economy, increased penetration of renewables, and the resulting diminished value of long-term contracts for new fossil resources. To replace the capacity that would be provided by either Alamitos or Huntington Beach, order SCE to either refresh its conventional generation bids to procure a smaller facility to meet no more than the 1,000 MW fossil fuel minimum or include this and additional capacity needed to meet SCE's minimum any resource authorization requirement as part of a second RFO.

RECOMMENDATION 5: Approve offers not identified in Recommendations 1 through 4.

RECOMMENDATION 6: Order SCE to issue a second RFO by a date certain to replace the resources identified above as well as the 99 MW of remaining minimum Preferred Resource and Energy Storage procurement required under D.13-02-015 and D.14-03-004 that SCE has not procured through this Application.

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OPENING BRIEF OF SIERRA CLUB

Sierra Club respectfully submits this Opening Brief on the Application of Southern California Edison for Approval of the Results of Its 2013 Local Capacity Requirements Request for Offers for the Western Los Angeles Basin (“LA Basin Application”). This Opening Brief is timely submitted pursuant to the schedule set forth in the May 22, 2015 email ruling of Administrative Law Judge DeAngelis granting an extension of the due date for Opening Briefs to June 10, 2015.

I. INTRODUCTION

The LA Basin Application likely represents the single largest set of new resource investments the Commission will approve for the foreseeable future.¹ The Application also comes at a time when California has signaled it will take aggressive steps to continue its decarbonization trajectory, with Governor Brown calling for increasing the energy derived from renewable sources from 33 to 50 percent by 2030 and issuing an Executive Order setting a target of reducing greenhouse gas pollution to 40 percent below 1990 levels within this same period.² California’s rapid transition to an increasingly decarbonized energy system underscores the importance of ensuring the LA Basin Application strictly complies with the Loading Order’s requirement to prioritize procurement of feasible and cost-effective Preferred Resources over

¹ In its LA Basin Application, Southern California Edison (“SCE”) seeks approval of contracts for close to 1,900 MW of resources to meet the bulk of the local capacity need the Commission identified for the Western Los Angeles Basin in D.13-02-015 and D.14-03-004 to address the retirements of once-through-cooling facilities and the San Onofre Nuclear Generating Station.

² CA.gov, Governor Brown Sworn In, Delivers Inaugural Address, Jan 4, 2015, *available at* <http://gov.ca.gov/news.php?id=18828>; Executive Order B-30-15. SB 350, legislation codifying the 50 percent renewable requirement, has now passed the State Senate. See http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0301-0350/sb_350_bill_20150604_history.html

fossil fuels.³ In addition, consist with its statutory duty to ensure “reasonable rates and to protect the environment,”⁴ the Commission should also consider whether the proposed LA Basin contracts are prudent in light of the reasonably foreseeable acceleration of state climate goals, and whether the contracts are well-suited to meet emerging grid needs like mitigation of overgeneration. As required by the Governor’s recent Executive Order, it is incumbent on state agencies like the Commission to “take climate change into account in their planning and investment decisions” and to prioritize actions that “reduce greenhouse gas emissions.”⁵

While SCE is to be commended for its robust RFO solicitation, its final contract selection is highly problematic. SCE’s proposed contracts include behind-the-meter fossil fuel reciprocating engines ostensibly categorized as a Preferred Resource, a 98 MW gas-fired peaker chosen over more economic energy storage offers, and two combined cycle facilities with a combined capacity well in excess of SCE’s minimum 1,000 MW fossil fuel procurement authorization. SCE’s overly fossil-fuel-centric procurement violates the Loading Order, is unreasonable, and needlessly undermines achievement of California’s greenhouse gas objectives.

First, in direct contravention of over a decade of Commission policy and decisionmaking, SCE seeks approval of 70 MW of demand response contracts that rely on behind-the-meter fossil-fueled reciprocating engines to respond to a dispatch event (Offers 447200-447205) and an additional 5 MW contract that could potentially rely on fossil generation (Offer 447250). SCE’s proposed procurement of these resources would count toward SCE’s minimum Preferred Resource procurement requirements. Reciprocating engines, whether classified as demand response or, as SCE now attempts to argue, distributed generation, are not Preferred Resources and cannot be legitimately approved as part of SCE’s Preferred Resource procurement. Indeed, the negative implications of Commission acceptance of SCE’s effort to broaden the Loading Order to include reciprocating engines cannot be overstated. Were these offers approved, developers would have little motivation to pursue the innovative carbon-free solutions critical to the ultimate success of California’s decarbonization efforts knowing they could simply default to small polluting fossil-fuel engines and still be prioritized under state clean energy policy.

³ See, e.g., D.14-03-004, *Decision Authorizing Long-Term Procurement for Local Capacity Requirements Due to Permanent Retirement of the San Onofre Nuclear Generating Station* (Mar. 14, 2014), p. 15 (requiring “strict compliance” with Loading Order in meeting procurement authorization).

⁴ D.14-03-004 pp. 12-13.

⁵ Exec. Order B-30-15.

Second, the Application improperly limits procurement of in-front-of-meter energy storage (“IFOM ES”). Although SCE’s own modeling determined that 400 to 900 MW of IFOM ES was the most economic resource to meet its procurement needs, SCE limited IFOM ES procurement to only 100 MW.⁶ SCE provides no analytical support for imposing this significant procurement limitation. Instead, SCE points to transmission charges that will not be levied and unsubstantiated overvaluation concerns contravened by all record evidence. Although it is one of the largest electric utilities in the nation, with revenue from 14 million customers and a stable outlook from all three credit rating agencies, SCE even goes so far as to suggest that its severe limit on procurement of economic energy storage is needed to avoid the risk of a credit downgrade. As a consequence of restricting IFOM ES procurement, SCE procured the 98 MW Stanton gas-fired peaker plant (Offers 473237 and 473238). Stanton is not nearly as economic as viable IFOM ES bids, will rarely operate, and does not provide the same range of grid services as IFOM ES. Stanton is less effective than IFOM ES in integrating higher levels of renewable generation at lowest cost because unlike IFOM ES, it cannot absorb energy during overgeneration events. Stanton is not a prudent ratepayer investment and its proposed procurement violates the Loading Order and requirements of D.13-02-015 and D.14-03-004 to procure feasibly available and cost effective energy storage prior to resorting to fossil fuels.⁷

Third, SCE’s remaining procurement of conventional gas generation, combined-cycle facilities at Alamitos and Huntington Beach roughly 640 MW each (Offers 475208 and 475209), substantially exceed SCE’s minimum 1,000 MW fossil fuel procurement authorization. While SCE directs its skepticism exclusively at the future value of energy storage resources, it ignores the significant uncertainty in the value of fossil fuel facilities in a rapidly decarbonizing energy system. SCE’s proposed fossil fuel contracts are overvalued in light of reasonable foreseeable increases in renewable energy requirements and displace needed and more prudent investments in carbon-free energy solutions. Accordingly, the Commission should reject one of the combined-cycle contracts and order SCE to procure a smaller gas-fired facility of approximately 360 MW to comply with the 1,000 MW fossil fuel procurement minimum in D.13-02-015.

⁶ Exh. SCE-1 p. 57.

⁷ See, e.g., D.13-02-015, *Decision Authorizing Long-Term Procurement for Local Capacity Requirements* (Feb. 13, 2013) p. 78 (“when considering SCE’s procurement application, we will require SCE to show that it has done everything it could to obtain ...cost-effective preferred resources and energy storage resources to meet LCR needs.”)

Finally, while the LA Basin Application is short 99 MW of the required 600 MW minimum procurement of Preferred Resources and energy storage, SCE is markedly non-committal about issuing a subsequent RFO to meet this residual need. While D.13-02-015 and D.14-03-004 provide a procurement range for some resource categories, procurement of a minimum of 600 MW of Preferred Resources and energy storage is not discretionary.⁸ The Commission should order SCE to issue a second RFO by a date certain to meet SCE's remaining residual Preferred Resource and storage requirements and additional procurement needs resulting from rejection of the offers identified above.

II. ARGUMENT

A. Fossil-Fueled Reciprocating Engines are Not a Preferred Resource and Cannot Be Lawfully Approved as Part of SCE's Required Preferred Resource Procurement.

To meet part of its preferred resource procurement requirement, SCE "selected seven DR contracts from one counterparty that provide a total of 75 LCR MW of savings."⁹ Six of these DR contracts (Offers 447200-447205), totaling 70 MW, "provide load reduction from [behind-the-meter] backup natural gas fired generation."¹⁰ As provided in SCE's Application, "[d]uring a DR dispatch, backup generators would serve the customer's load and reduce the amount of energy served by the grid."¹¹ The remaining Demand Response contract (Offer 447250) purports to provide "load reduction by curtailing customer energy consumption."¹² However, the contract provides "no assurance" that load reduction be achieved through "actual curtailment in customer energy."¹³ Like Offers 447200-447205, reduction could be met "by using some kind of gas generation."¹⁴

The Commission should categorically reject all of SCE's proposed demand response

⁸ D.13-02-015 and D.14-03-004 collectively authorized SCE to procure between 1900 and 2500 MW through a minimum of 1,000 MW of conventional gas-fired generation, 300 to 500 MW from any resource, a minimum of 600 MW of preferred resources and energy storage, of which at least 50 MW must be energy storage, and optional additional procurement of up to 400 MW of preferred resources and energy storage. D.14-03-004 p. 143 (Ordering Paragraph 1).

⁹ Exh. SCE-1, p. 69.

¹⁰ Exh. SCE-1, Revised p. 70.

¹¹ Exh. SCE-1, Revised p. 70.

¹² Exh. SCE-1, Revised p. 70.

¹³ Tr. 143:11-16 (SCE, Bryson).

¹⁴ Tr. 143:2-6 (SCE, Bryson).

contracts because they rely, or could rely, on fossil fuels to meet load reduction requirements in direct contravention of years of Commission precedent requiring demand response programs to actually reduce customer load. SCE's effort to evade this restriction by claiming its Demand Response contracts qualify as "Distributed Generation" under the Loading Order is wholly without merit and even inconsistent with its own publicly stated definition of Preferred Resources. Approval of these offers would create a gaping fossil fuel loophole in the Loading Order, crowd out deployment of legitimate carbon-free Preferred Resources and undermine California's ability to achieve its aggressive climate goals.

1. SCE's Demand Response Offers Bear No Meaningful Difference from Proposed Demand Response Programs the Commission Has Repeatedly Rejected for Over a Decade.

SCE's Demand Response offers are exactly the type of projects the Commission has rejected again and again as contrary to the Loading Order, Energy Action Plan, and purpose of demand response. As the Commission has repeatedly held, programs that "reduce demand on the utility system by shifting load to an onsite generation source....are not true demand response programs" because there they do not result in a "net demand reduction."¹⁵ Thus, in D.05-01-056, the Commission rejected a proposal by PG&E to retrofit on-site diesel generators and make "them available like a peaker plant to serve ongoing demand needs" for up to 150 hours.¹⁶ The following year, PG&E hoped to distinguish the previously rejected program by proposing to replace on-site diesel engines with cleaner natural gas to meet customer demand during a demand response event.¹⁷ The Commission again rejected the program. Regardless of fossil-fuel type utilized, the fundamental "objective in funding demand response programs is to reduce system demand, not to substitute system electricity with electricity generated by off-grid natural gas facilities."¹⁸ For the same reason, the Commission rejected another proposed program in D.09-08-027, this one purportedly available for up to 250 hours per year in part using energy

¹⁵ See, e.g., D.05-01-056, *Order Approving 2005 Demand Response Goals, Programs and Budgets* (Jan. 31, 2005), p. 47.

¹⁶ *Id.* pp. 48-49.

¹⁷ D.06-11-049, *Order Adopting Changes to 2007 Utility Demand Response Programs*, (Nov. 30, 2006), p. 57.

¹⁸ *Id.*

from required generator tests that would otherwise be wasted.¹⁹ As the Commission recently summarized in D.14-12-024:

In reviewing the Commission's past statements regarding the use of backup generation for demand response, we affirm that the Commission has continuously endeavored to ensure that "adequate, reliable and reasonably priced electric power and natural gas supplies are achieved and provided through policies, strategies and actions that are cost-effective and *environmentally sound*," as required by the California Energy Action Plan. As such, our previous statements regarding back-up generation have addressed an aversion to the use of technologies, such as fossil-fueled back-up generation, that are antithetical to the efforts of the Energy Action Plan and the Loading Order.²⁰

In an effort to skirt long-standing Commission precedent rejecting programs virtually identical to SCE's Demand Response Offers, SCE asserts that its Demand Response offers "should be considered DG" and therefore a "Preferred Resource as identified in the Loading Order."²¹ SCE's rebranding effort does not withstand scrutiny. SCE's Application categorizes these offers as "Demand Response."²² The offers were created using a "DR contract for the LCR RFO" and the fossil-fuel generation would otherwise be off unless called upon "[d]uring a DR dispatch."²³ As SCE has acknowledged, the contracts are categorized as "demand response because they obligate the provider to reduce demand when dispatched" and "SCE considers the resources to perform consistent with demand response."²⁴ Just as "a rose by any other name would smell as sweet,"²⁵ naming Offers 447200-447205 "distributed generation" does not change the fundamental nature of these contracts and does not change the fact that they are impermissible demand response resources that are antithetical to the Loading Order. Reciprocating fossil-fueled engines responding to demand response dispatch pollute just as much whether they are named Distributed Generation or named Demand Response. SCE's position that the very same resource that is antithetical to the Loading Order when called Demand

¹⁹ D.09-08-027, *Decision Adopting Demand Response Activities and Budgets for 2009 Through 2011* (Aug. 24, 2009), pp. 164-166.

²⁰ D.14-12-024, *Decision Resolving Several Phase Two Issues and Addressing the Motion for Adoption of Settlement Agreement on Phase Three Issues* (Dec. 19, 2014) p. 57 (emphasis in original).

²¹ Exh. SCE-06 pp.12:21, 13:8.

²² Exh. SCE-01 p. 69:4-6.

²³ Exh. SCE-01 p. 70:3; Tr. 135-136:28-2 (SCE, Bryson) ("The resources are intended to run when called upon and do not presumably otherwise run.")

²⁴ Exh. Sierra Club-01, Data Request Response Sierra Club-SCE-002, Question 3(b), Feb. 18, 2015.

²⁵ Shakespeare, *Romeo and Juliet*, Act II, Scene II, Lines 47-48.

Response furthers the Loading Order when called Distributed Generation is untenable.

Moreover, the Demand Response offers in SCE's Application bear no meaningful difference from the proposals the Commission has previously rejected. Like the program evaluated in D.05-01-056, SCE's Demand Response offers would utilize off-grid natural gas facilities, in this case likely from reciprocating internal combustion engines.²⁶ SCE's Demand Response offers are for economic dispatch and like D.05-01-056 are thus "intended to operate like a peaker plant to serve ongoing demand needs."²⁷ Critically, SCE's Demand Response offers contemplate no net load reduction. Instead, the "reduction in load from the system" would be achieved by meeting customer energy needs with behind-the-meter fossil generation, not customer load reduction.²⁸ SCE's proposed Demand Response offers are properly classified as impermissible Demand Response, not Distributed Generation, and should not be approved.

2. Even if SCE's Demand Response Offers Could be Legitimately Categorized as Distributed Generation, Fossil-Fueled Reciprocated Engines are Not Loading Order Resources and Cannot Count Toward SCE's Preferred Resource Procurement Requirements.

Even assuming SCE's demand response offers could be credibly characterized as "Distributed Generation," distributed fossil-fueled reciprocating engines are not a Preferred Resource and therefore cannot be procured to meet SCE's minimum Preferred Resource requirements. As set forth in both D.13-02-015 and D.14-03-004, "consistency with the Loading Order and advancing California's policy of fossil fuel reduction demand strict compliance with the loading order."²⁹ California does not advance its policy of fossil fuel reduction by allowing reciprocating engines to qualify as a Preferred Resource. Regardless of the fossil fuel type used or whether the resource is distributed or centralized, fossil-fueled engines "emit carbon and

²⁶ Tr. 330:24-26 (NRG, Nikolay) ("In actual fact, we're looking primarily at reciprocating engines, not micro turbines.").

²⁷ Tr. 136:25 (SCE, Bryon); D.05-01-056 p. 48. While SCE attempts to distinguish the Commission's prohibition on backup generation as limited to demand response resources used only in emergency situations, Commission decisions rejecting use of on-site generation to respond to a demand response event make no such distinction. Tr. 136:10-18 (SCE, Bryson). The determining factor is whether the customer actually reduces its load or not. In fact, as programs used for economic dispatch would be deployed more frequently and thus result in greater environmental harm, the Commission's prohibition on on-site generation to respond to demand response events should apply with even greater force for non-emergency demand response programs.

²⁸ Tr. 134:17-28 (SCE, Bryson); *see also* Tr. 135:11-21 (SCE, Bryson), Exh. SCE-1 p. 70.

²⁹ D.13-02-015 p. 11; D.14-03-004 p.15 (same).

criteria pollutants.”³⁰ Just as a simple cycle gas peaking unit is not a Preferred Resource, chopping that peaking unit into smaller pieces does not make it so. In fact, because distributed fossil generation tends to be closer to the ground and proximate to population centers, it can exacerbate the negative health and environmental consequences of fossil generation when compared to a centralized fossil resource.³¹ SCE’s claim that dispersing hundreds of polluting reciprocating engines in the most polluted air basin in the country qualifies as a Preferred Resource is a gross perversion of the Loading Order and reflects a disturbing insouciance toward its many customers whose health is already compromised by the region’s severely impaired air quality.

SCE’s assertion that fossil-fueled Distributed Generation is a Loading Order resource under the Energy Action plan is unavailing.³² The Energy Action Plan states that “[t]o the extent efficiency, demand response, renewable resources and distributed generation are unable to satisfy increasing energy and capacity needs, we support clean and efficient fossil-fired generation.”³³ Language should be interpreted in a way that is consistent with a document’s overall policy and intent.³⁴ The Energy Action Plan and Loading Order clearly contemplate that use of fossil-fuel generation is a last resort. Interpreting the Energy Action Plan to permit reciprocating engines to qualify as a Preferred Resource is inconsistent with this clear language and intent.

The fact that the Energy Action Plan lists combined heat and power (“CHP”) as a type of Distributed Generation that can qualify as a Loading Order resource does not open the door to preferential treatment of the reciprocating engines at issue here.³⁵ Words of enlargement (“for example,” “including” and “such as”) are logically interpreted as providing specific examples, and “[do] not conclusively demonstrate that the Legislature intended a category to be without

³⁰ Exh. Sierra Club-02 p. 14 (Prepared Testimony of Robert Fagan)

³¹ Exh. Sierra Club-02 p. 14 (Prepared Testimony of Robert Fagan), citing Heath, G. and Nazaroff, W. *Intake-to-Delivered-Energy Ratios for Central Station and Distributed Electricity Generation in California*, Atmospheric Environment 2007, 40, 9159-9172.

³² Exh. SCE-06 p. 13:8-9.

³³ State of California, Energy Action Plan II (Sept. 21, 2005), p. 2, *available at* http://www.energy.ca.gov/energy_action_plan/2005-09-21_EAP2_FINAL.PDF.

³⁴ *See, e.g., Escobedo v. Estate of Snider* (1997) 14 Cal. 4th 1214, 1223 (“[T]he court must consider the consequences that might flow from a particular construction and should construe the statute so as to promote rather than defeat the statute’s purpose and policy.”).

³⁵ Energy Action Plan II, p. 2 (“After cost-effective efficiency and demand response, we rely on renewable sources of power and distributed generation, such as combined heat and power applications.”).

limits.”³⁶ Accordingly, exceptions to a rule cannot be interpreted so broadly that they would “swallow the rule.”³⁷ CHP facilities have long been recognized as an important tool in improving industrial efficiency and helping to achieve California’s near-term greenhouse gas reduction targets because they harness the byproduct heat energy from a power resource that would otherwise be wasted.³⁸ A traditional reciprocating internal combustion engine absent the use of byproduct heat energy (which is the case here) simply burns fossil fuels to make electricity. To read the inclusion of CHP as opening the door for all non-renewable technologies to qualify as distributed generation, so long as they are smaller than centralized generation, would be a warrantless and overly broad interpretation of an exemption that would render the Loading Order meaningless and undermine its objective of reducing reliance on fossil fuels resources.

Notably, SCE’s assertion that reciprocating engines are a Preferred Resource directly contravenes its own public definition of the term. Consistent with any credible reading of the Loading Order, SCE defines Preferred Resources in its publicly facing documents as demand response that reduces electric usage by customers and distributed generation that is renewable.³⁹ Offers 447200-447205 and potentially Offer 447250 are neither. The contrast between the reasoned Preferred Resource definition SCE espouses to the public and the tortured fossil-fuel-centric stance pushed within the confines of the Public Utilities Commission could not be more stark.

Accordingly, the Commission should reject SCE’s request for approval of Offers 447200-447205 because fossil-fueled reciprocating engines are not a Preferred Resource and therefore cannot be contracted to meet SCE’s Preferred Resource procurement requirements. Offer

³⁶ *People v. Giordano* (2007) 42 Cal.4th 644, 660 (citing *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1389).

³⁷ *See Mycogen Corp. v. Monsanto Co.* (2002) 28 Cal.4th 888, 902.

³⁸ California Air Resources Board, Climate Change Scoping Plan (2008), pp. 43-44 (setting goal for emission reductions equivalent to 4,000 MW of new CHP generation by 2020); D.10-12-035 (Dec. 16, 2010), Decision Adopting Proposed Settlement (creating a new CHP program requiring the three IOUs to procure a minimum of 3,000 MW of CHP capacity by 2015 and reduce greenhouse gas emissions by 4.8 MMTCO₂e).

³⁹ Exh. Sierra Club-07 p. 2 (SCE, Preferred Resources Pilot Overview (Dec. 2014)). SCE further states that while its initial focus will be on preferred resources that do not rely on natural gas, “conventional combined heat and power and fuel-cell resources may need to be acquired.” *Id.* As SCE recognizes in this statement, only a very narrow set of resources that utilize natural gas can qualify as a Preferred Resource.

447250 should also be rejected because the contract for this offer contains no provisions prohibiting use of fossil generation to respond to a demand response event. In the alternative, Offer 447205 could be approved on the condition the contract be amended to expressly exclude use of behind-the-meter fossil generation with punitive damages for non-compliance.

B. SCE's Imposition of a 100 MW Cap on In-Front-of-Meter Energy Storage is Unreasonable, Unsupported and Resulted in Procurement that is Inconsistent with the Loading Order.

In determining the final set of resources for which it would seek procurement approval, SCE's optimization tool identified between 400 and 900 MW of IFOM ES bids as the most optimal, economic resource.⁴⁰ None of SCE's original optimization draws contained the proposed 98 MW gas-fired Stanton peaker plant (Offers 473237 and 473238).⁴¹ Although SCE's own models determined IFOM ES was an economic and optimal resource to meet LCR need, SCE imposed a 100 MW cap on IFOM ES procurement.⁴² As a direct consequence of SCE's imposition of the 100 MW limit on energy storage, SCE selected procurement of the gas-fired Stanton peaker.⁴³ SCE's justifications for imposition of the storage cap, which primarily consist of concerns over transmission access charges, overvaluation, and credit ratings, do not withstand scrutiny. SCE's procurement of the Stanton peaker in lieu of feasible and cost-effective storage was unreasonable and inconsistent with the Loading Order.

1. SCE's Concerns Over a Potential Transmission Access Charge Do Not Justify its Storage Cap Given that Storage Will Not Be Subject to this Charge.

A key justification in SCE's Application for the limit on energy storage was a purported lack of clarity "on whether grid-connected storage will pay transmission and distribution access charges."⁴⁴ SCE's concern is unfounded given that CAISO has determined that a transmission

⁴⁰ Exh. SCE-01 p. 57:7-8. SCE did a series of draws at 25 MW increments to determine the optimal set of resources to meet need within the 1,900 to 2,500 authorized procurement range. The 400 to 900 MW of economic storage was the range in the 25 draws, with storage procurement presumably increasing as SCE approached its maximum procurement authorization.

⁴¹ Tr. 82:1-7 (SCE, Singh).

⁴² Exh. SCE-01 p. 57:17.

⁴³ Tr. 83:19-24 (SCE, Singh).

⁴⁴ Exh. SCE-01 p.16:14-15. SCE's Application also references unelaborated concerns over interconnection costs. Exh. SCE-01 p. 16:3-10. However, because SCE "required developers to include network upgrade cost estimates in their bid" and if costs were exceeded, SCE "had the right to terminate

access charge (“TAC”) is not applicable to energy storage resources.⁴⁵ As SCE has acknowledged, there is no reason to believe CAISO’s determination will change.⁴⁶ In addition, because CAISO will not apply a TAC on energy storage, there is no basis for SCE to impose a distribution access charge to maintain consistent treatment of storage connecting to the transmission and distribution systems. Thus, SCE has now determined it “will not be assessing any type of an access charge” on storage resources.⁴⁷ Given that neither a TAC nor distribution access charge will be assessed on energy storage, SCE cannot credibly cite these charges to justify its significant limitation on IFOM ES procurement.

Contrary to SCE’s suggestion, the Commission should not determine that SCE’s storage cap is reasonable because CAISO’s final determination on applicability of a TAC occurred shortly before SCE filed its Application.⁴⁸ Billions of dollars of ratepayer investment in new resources are at stake. The Commission should assess the reasonableness of SCE’s proposed contracts based on the best available information in the record to ensure prudent investments in the long-term interests of California ratepayers, not on what SCE asserts it may or may not have known during contract execution. In any event, not only did CAISO’s TAC determination predate the filing of SCE’s Application but SCE was also a stakeholder in CAISO’s storage interconnection process and aware at least as early as June 2014 that CAISO did not believe a TAC should apply to energy storage.⁴⁹ Moreover, SCE mitigated the risks of potential access charges as part of its contract negotiations.⁵⁰ SCE’s repeated reliance on a potential TAC as a basis for capping storage procurement is without merit.

2. SCE’s Assertions of Potential Overvaluation of Ancillary Services Are Unsupported and Contrary to the Record.

SCE’s other principal justification for its restriction on energy storage procurement is potential overvaluation of storage resources due to a modeling assumption allowing full

the contract,” interconnection costs did not present an overvaluation risk justifying a cap on storage procurement. Tr. 15:1-16 (SCE, Singh).

⁴⁵ Exh. Sierra Club-04 p. 27 (CAISO, Energy Storage Interconnection Draft Final Proposal, Nov. 18, 2014); Tr. 42:28-43:1-2 (SCE, Singh).

⁴⁶ Tr. 43:3-5 (SCE, Singh).

⁴⁷ Tr. 43:20-44:11 (SCE, Singh).

⁴⁸ Exh. SCE-06 p. 4:20-23; Tr. 19:20-24 (SCE, Singh).

⁴⁹ Tr. 44:24 – 46:17 (SCE, Singh), Exh. Sierra Club-03 p. 13 (CAISO, Energy Storage Interconnection, Issue Paper & Straw Proposal (June 24, 2014)).

⁵⁰ Tr. 49:10-14.

participation in ancillary service markets.⁵¹ According to SCE, a constraint on charging during system peak hours “would hinder IFOM ES’s ability to fully participate in [ancillary service] markets” and result in less revenue than assumed in SCE’s model.⁵² However, SCE provides absolutely no analysis to demonstrate the extent or probability that a charging constraint would impact its valuation of energy storage resources. For example, when asked whether it ran “any ancillary service revenue sensitivity analysis,” SCE stated that it did not.⁵³ When asked if it did any modeling to assess when it would ever be economic for storage to provide those ancillary services requiring charging during peak periods when storage charging costs are highest, SCE responded “No, we did not do any modeling.”⁵⁴ When asked whether it did any modeling to support its assertion that it may be economically beneficial for energy storage to charge during peak periods when storage charging costs are highest in order to provide ancillary services at some later juncture, SCE responded that it “did no modeling” to prove that claim.⁵⁵ When asked whether SCE did any analysis to determine a higher or lower risk of charging restrictions at any of the substations in the southwest LA subarea of the Western LA Basin, SCE responded that it did no such analysis.⁵⁶ When asked whether it analyzed impacts to ancillary service value were it to procure storage above its 100 MW cap, such as 200 MW of storage at Alamitos, SCE responded “we did not do that.”⁵⁷ SCE’s reliance on speculative concerns unsupported by any data or analysis is unreasonable. SCE has not met its burden to justify its valuation concerns and the departure from its own economics-based modeling of least-cost best-fit local capacity resources.

Moreover, record evidence overwhelmingly supports the conclusion that SCE’s modeling of full ancillary service value was appropriate and did not result in meaningful overvaluation of energy storage resources. The provision of ancillary services during peak periods represents a tiny fraction of overall storage value. Because storage provides capacity, energy, and ancillary

⁵¹ Exh. SCE-01 p. 53:13-17 (SCE Opening Testimony).

⁵² Exh. SCE-06 p. 4:19-25 (SCE Rebuttal Testimony).

⁵³ Tr. 25:22-26 (SCE, Singh).

⁵⁴ Tr. 61:7-11 (SCE, Singh). Storage charging costs are set at the locational marginal price (“LMP”), which, by definition, increases with demand at the relevant nodal location. Tr. 58:17-59:9.

⁵⁵ Tr. 62:22-63:4 (SCE, Singh).

⁵⁶ Tr. 74:9-15 (SCE, Singh).

⁵⁷ Tr. 80:2-7 (SCE, Singh).

services, provision of ancillary services comprises only one component of total storage value.⁵⁸ With respect to the portion of storage value that is derived from ancillary services, congestion rarely has even the potential to impede ancillary service value. As noted by Sierra Club witness Bob Fagan, “There is very little congestion associated with the grid for most hours of the year.”⁵⁹ In addition, congestion on the high voltage lines where IFOM ES would be located rarely, if ever, exists.⁶⁰ SCE recognized that it is “extremely unlikely that you would see a charge constraint” on an A-bank substation in off-peak months” and conceded that “interconnection at a higher transmission level voltage such as 220 kilovolts mitigates a part of the risk of charging restrictions and congestion.”⁶¹ Indeed, over the past five years, the majority of 220 and 230 kV lines in the southwest sub-area of the LA Basin where storage resources could be sited have experienced little to no congestion.⁶² SCE’s stated concern that charging constraints would meaningfully diminish storage value is a red herring.

Even assuming congestion did occur for some limited period of time during which the storage resource would be constrained from charging, this constraint would only affect the value of storage if it was economic for storage to charge (e.g. provide regulation down services) during the congested time period. A charging constraint is “most likely during summer peak hours when demand and potential congestion risks will be highest.”⁶³ Because storage charges at the locational marginal price (“LMP”), the cost of charging is highest in peak periods.⁶⁴ Thus, while SCE makes the unsupported assertion that “[i]t is possible that the most economic use of storage

⁵⁸ For a percentage breakdown of capacity, energy and ancillary service value, see Exh. Sierra Club 2C p. 5, Table 1 (Confidential Testimony of Bob Fagan). Moreover, ancillary services relying on charging, such as regulation down, are one part of total ancillary service value. However, SCE’s valuation model does not identify “the value attributed to each [ancillary] service individually.” Exh. Sierra Club-08, Data Request Sierra Club-SCE-004, Q. 3 (Motion for Admission into Evidence pending).

⁵⁹ Tr. 255:13-15 (Sierra Club, Fagan)

⁶⁰ Tr. 255:25-27 (Sierra Club, Fagan) (minimal congestion “especially true at the relatively thick, higher voltage points at which some of these energy storage resources are proposed to be installed.”).

⁶¹ Tr. 67:4-20; 17:20-26 (SCE, Singh).

⁶² Exh. Sierra Club-08 (Motion for Admission into Evidence pending). Of congestion that did occur on high voltage lines, the vast majority was confined to only two lines in the Southwest Sub-Area. *Id.* A Map of 220 and 230 kV lines in Southwest LA Basin can be found on page 98 of the CAISO’s 2013-2014 Transmission Plan, available at https://www.aiso.com/Documents/Board-Approved2013-2014TransmissionPlan_July162014.pdf. A list of each energy storage offer, its capacity and point of interconnection is provided in Exh. Sierra Club 1C (confidential data request responses).

⁶³ Tr. 52:16-21 (SCE, Singh).

⁶⁴ Tr. 58:22-59:9 (SCE, Singh).

during peak hours will be providing ancillary services (e.g regulation down),”⁶⁵ provision of ancillary services that require charging during peak periods makes little to no economic sense. Rather, and as apparently reflected in SCE’s own economic evaluation, it is economically sensible for the storage resource to be providing either energy or the ancillary services known as “spinning [operating] reserve” or “non-spinning [operating] reserve” during these periods, directly providing energy to the grid, or being available (as operating reserve) to directly provide energy to the grid – and thus not needing to charge at all during these times. In fact, because peak periods also have significant gas resources on-line, which can provide regulation down simply by lowering output rather than paying a high LMP, other resources are available to offer the regulation down ancillary service at much lower cost.⁶⁶ As summarized by Sierra Club expert witness Bob Fagan, “the ancillary service benefits attributed to [energy storage] resources by SoCal Edison’s evaluation are fundamentally logical” and consistent with “the technical merits of the resource.”⁶⁷ There is simply no record basis substantiating SCE’s overvaluation concerns and its subsequent imposition of a cap on storage procurement.

3. SCE’s Attenuated and Speculative Concerns Over its Credit Rating Do Not Merit Limiting Storage Procurement to Only 100 MW.

In an attempt to further justify limiting economic deployment of energy storage, SCE claims through a series of speculative assertions that additional storage procurement could result in a credit downgrade due to the potential debt equivalence associated with IFOM ES contracts. While SCE sought to minimize potential debt equivalence through use of an Embedded Put Option, which can lower debt equivalence by functioning to classify a contract as an operating lease instead of a capital lease, SCE asserts that potential overvaluation of energy storage resources could nonetheless result in an IFOM ES contract receiving capital lease accounting treatment.⁶⁸ Because debt equivalence is viewed as debt by the Standard & Poor’s (“S&P”) credit rating agency, SCE reasons S&P may view SCE as overly leveraged as a result of

⁶⁵ Exh. Sierra Club-01, Data Request Response Sierra Club-SCE-001, Q. 07a, dated Jan. 12, 2015.

⁶⁶ See Tr. 61:15 - 63:4 (SCE, Singh). While SCE suggested a potential for storage to economically charge at high prices to provide services later in the day, it provided no analysis to support this claim. *Id.*

⁶⁷ Tr. 236:4-8 (Sierra Club, Fagan).

⁶⁸ Exh. SCE-06 p. 6:4-13. A contract assigned capital lease treatment would have four times the debt equivalence of a contract classified as an operating lease. Tr. 225 (SCE, Hunt).

additional storage contracts being classified as capital leases and lower its credit rating.⁶⁹ SCE's invocation of debt equivalence as a justification for capping storage procurement fails for two reasons. First, because SCE's overvaluation concerns are unsupported and contrary to the record, its concerns over capital lease treatment are not justified. Second, even if the storage contract was treated at a capital lease, SCE has failed to demonstrate that capital lease treatment would result in a cognizable risk of a credit downgrade by S&P or other rating agencies.

According to SCE, "[u]ncertainty around the valuation results also created additional risk for potential capital lease accounting and higher amounts of debt equivalence, as the valuation analysis is being used to set the strike prices for the Embedded Put Option."⁷⁰ Yet SCE has made no demonstration that the failure of the Embedded Put Option and risk of capital lease accounting is meaningful. Rather, as SCE acknowledges, because CAISO has clarified that energy storage is not subject to a TAC, the risks of the Embedded Put Option not functioning to avoid capital lease treatment "are reduced."⁷¹ Similarly, as set forth above, SCE's concern that its ancillary service valuation overestimates actual storage value is unsupported and inconsistent with record evidence. Because SCE's valuation concerns are unjustified, its concerns over capital lease accounting treatment for IFOM ES are equally so.

In addition, SCE has failed to substantiate its concern of a credit downgrade from additional storage procurement even assuming these resources were classified as capital leases. Additional computed debt though a utility's contractual obligations are only one of a host of criteria S&P considers when making a credit rating determination.⁷² The two overall factors for a credit rating determination are the business risk profile and financial risk profile. For an electric utility, the business risk profile takes "into account the regulatory and legislative environment in the state the utility operates in."⁷³ SCE's business risk profile would remain unchanged whether or not SCE procured additional IFOM ES. A cash flow/leverage analysis is the basis for assessing a company's financial risk profile.⁷⁴ This is determined by calculating the

⁶⁹ See Exh. SCE-01 p. 31-32; Exh. SCE-06 p. 5:23-6:2.

⁷⁰ Exh. SCE-001 p. 53:20-23

⁷¹ Tr. 51:14-18 (SCE, Singh).

⁷² For a summary of S&P's criteria for rating industrial companies and utilities, S&P, RatingsDirect, Corporate Methodology (Nov. 19, 2013), *available at* <http://maalot.co.il/publications/MCP20141207101334a.pdf>

⁷³ Tr. 223:3:5 (SCE, Hunt).

⁷⁴ See S&P, RatingsDirect, Corporate Methodology (Nov. 19, 2013) p. 8, *available at*

ratio of cash flow or Funds From Operation (“FFO”) with debt. The FFO/debt ratio provides a preliminary designation of the degree to which the utility is leveraged, ranging from minimal to highly leveraged.⁷⁵ SCE generally observes that the “overall effect of debt equivalence is to make SCE’s balance sheet more leveraged” and that “if SCE’s debt equivalents increase by a significant amount, it could result in a downgrade of SCE’s credit rating.”⁷⁶ However, SCE provides no analysis of the actual impact capital lease categorization of additional IFOM ES would have on its overall debt and financial risk profile or whether the increase in debt equivalence from additional storage procurement would be remotely sufficient to result in more leveraged cash flow/leverage ratio designation by S&P or other credit rating agencies. Indeed, given that SCE is one of the largest electric utilities in the country, with revenue from 14 million customers and a “stable” outlook from all three ratings agencies,⁷⁷ even assuming additional IFOM ES contracts were classified as a capital lease, it is difficult to conceive how the resulting debt equivalence could have anything but the most negligible impact on S&P’s overall credit rating assessment. Bereft of analysis, SCE’s invocation of inchoate debt equivalence concerns is not a reasonable justification for its cap on storage procurement.

4. SCE’s Decision to Procure a 98 MW Gas-Fired Peaker Plant In Lieu of Cost-Effective Energy Storage Violates the Loading Order, the Mandates of the Track 1 and 4 Decisions, and is Not a Prudent Investment.

As part of its Application, SCE is required to “to show that it has done everything it could to obtain cost-effective demand-side resources which can reduce the LCR need, and cost-effective preferred resources and energy storage resources to meet LCR needs.”⁷⁸ In opting to procure the 98 MW Stanton peaker plant over energy storage shown to be of greater value in its own modeling, SCE has done exactly the opposite. SCE’s proposed procurement of the Stanton peaker (Offers 473237 and 473238) is unreasonable, contrary to the Loading Order and directives of the authorizing LTPP Decisions, and should not be approved.

Because SCE’s limit on storage procurement was unreasonable, it follows that the

<http://maalot.co.il/publications/MCP20141207101334a.pdf>.

⁷⁵ *Id.* pp. 34-35.

⁷⁶ Exh. SCE-01 p. 32:3-5.

⁷⁷ See Edison International, Financial and Statistical Report (2013), pp. 1, 5, *available at* https://www.edison.com/content/dam/eix/documents/investors/sec-filings-financials/2013_Financial%26Statistical_Report.pdf.

⁷⁸ D.13-02-015 p. 78.

Stanton peaker is also unreasonable because the Stanton offers were only selected as a result of SCE's imposition of the 100 MW storage cap.⁷⁹ Even assuming there is some supportable basis to justify the storage cap, the contract for the Stanton peaker is not a prudent investment. The Stanton peaker is only being contracted to provide resource adequacy, will barely run, and SCE "will not control the dispatch rights under the contract and does not receive any energy or ancillary service benefits."⁸⁰ Moreover, because Stanton is a 20-year capacity contract with a 2020 on-line date,⁸¹ it will begin operations exactly as California likely accelerates the pace of its greenhouse gas reductions and progresses toward its fifty percent renewables objectives. As SCE acknowledges, "over-generation is going to be increasing as we go to a higher RPS."⁸² As a limited gas-fired capacity resource, Stanton is not a resource that can help mitigate overgeneration. In contrast, because energy storage can charge and accept energy during overgeneration periods, it "is well suited to assist in the integration of high levels of renewable generation."⁸³

Procurement of the Stanton peaker in lieu of energy storage is an ill-considered use of ratepayer funds and a squandered opportunity to better position California to affordably meet additional and reasonably foreseeable renewable and decarbonization requirements. Accordingly, the Commission should reject the Stanton offers and instead order SCE to refresh its IFOM ES bids to replace this capacity. If viable economic bids for storage resources sited at high voltage lines are no longer available, SCE should issue a new RFO to meet this and its remaining residual capacity needs.

C. SCE's Fossil-Fuel Procurement Should be Limited to the 1,000 MW Minimum Authorized Under the LTPP Decisions.

In addition to the fossil fuel behind-the-meter generation and the Stanton peaker plant,

⁷⁹ Tr. 83:19-24 (SCE, Singh). The difference in value between the Stanton peaking units and storage offers is discussed in Exh. ORA-02C p. 5-17 (ORA confidential testimony) and Exh. SCE-1C, Appendix D, pp. D-79 and D-89. While SCE's Application states that Stanton's proposed location at the Barre substation has "the highest effectiveness factor at meeting" at transmission contingency at the Serrano-Villa Park 230 kV line, not only would locating storage at this location be equally effective, but to the extent economic storage bids were not at this particular location, multiple locations in the West LA Basin would have roughly equivalent effectiveness at meeting this constraint. Exh. SCE-01 p. 79:16-19; Tr. 277:17-27, 278:4:14 (SCE, Chinn).

⁸⁰ Exh. SCE-01 p. 79:4-5, 81:20-22.

⁸¹ Exh. SCE-01 p. 78.

⁸² Tr. 86:22-28 (SCE, Singh)

⁸³ Exh. Sierra Club-02 p. 11:16-17 (Bob Fagan Testimony).

SCE proposes to procure over 1,280 MW of additional gas generation from two approximately 640 MW combined-cycle facilities at Alamitos and Huntington Beach. SCE's proposed procurement of fossil fuels is well in excess of the 1,000 MW minimum authorized under D.13-02-015. While SCE's Application is keenly focused on limiting storage procurement due to purported future uncertainties, it utterly ignores the real and significant risks of severely diminished value from new long-term contracts for fossil-fuel generation. In its resource valuation, SCE assumed 33 percent renewable requirements.⁸⁴ Although SCE's gas resources would be contracted for 20 years and not come on-line until 2020, SCE did no sensitivity of resource value at higher renewable levels. As explained in the testimony of Sierra Club expert Bob Fagan, SCE's combined-cycle offers derive significant value from energy benefits. However, energy prices are forecast to decrease with increased renewables, relative to the 33% RPS case.⁸⁵ Therefore, "[t]o the extent that California policy changes to one where a higher standard for RPS is used, then the valuations conducted by SCE in this RFO process likely overestimate the energy benefit of [combined-cycle] resource" and by comparison, make "IFOM ES resources even more attractive."⁸⁶

Especially in light of California's post-2020 policy direction toward increased renewables and significantly lower greenhouse gas pollution, overprocurement of fossil-resources makes little sense. Procuring only the minimum amount of gas-fired generation required under D.13-02-015 both better meets the Loading Order and better prepares SCE for potential increased renewable requirements while still remaining highly cost-effective. In addition to rejecting the contracts for the behind-the-meter reciprocating engines and the Stanton peaker, the Commission should only approve one of the proposed combined-cycle facilities and order SCE to contract for a smaller facility to meet no more than the 1,000 MW fossil fuel minimum either through refreshed bids or as part of a second RFO.

D. The Commission Should Order SCE to Issue a New RFO to Meet its Existing Residual Need and Additional Need from Rejected Contracts.

Although the LA Basin Application is short 99 MW of the 600 MW minimum procurement requirement for Preferred Resource and energy storage, SCE does not commit to

⁸⁴ Exh. Sierra Club-01, Public Data Request Responses, Sierra Club-SCE-001 Q. 2c & 2d, Jan. 22, 2015.

⁸⁵ Sierra Club-02 p. 12 (Bob Fagan Testimony).

⁸⁶ Sierra Club-02 p. 13:12-14, 24-25 (Bob Fagan Testimony).

issuing a second RFO to meet this residual need.⁸⁷ Instead, SCE points to its Track 1 Procurement Plan, which offers little in the way of committed additional procurement within the western LA Basin, and suggests further LCR studies may reduce the need for additional Preferred Resources.⁸⁸ Procuring the minimum 600 MW of Preferred Resources and energy storage is not discretionary. To ensure procurement of minimum required resources, the Commission should order SCE to issue a second RFO by a date certain. The second RFO should include both the 99 MW of residual need and additional need resulting from Commission denial of the offers identified above.

III. CONCLUSION

Sierra Club respectfully requests that the Commission deny Offers 44720-44725, deny Offer 44750 absent a contractual amendment prohibiting use of behind-the-meter fossil fuels, deny Offers 473237 and 473238 (Stanton peaker), and either Offer 475028 (Alamitos) or Offer 457029 (Huntington Beach), approve the remaining offers, and order SCE to issue a new RFO by a date certain to meet its residual capacity need.

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Respectfully submitted,

/s/

Matthew Vespa
Senior Attorney
Sierra Club
85 Second St., 2nd Floor
San Francisco, CA 94105
(415) 977-5753
matt.vespa@sierraclub.org

Attorney for Sierra Club

⁸⁷ Exh. SCE-01 p. 97.

⁸⁸ Exh. SCE-01 p. 97.